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Letter dated 27 October 2006 from the Permanent Representative of Côte d'Ivoire to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith, for your information, a copy of the complete text of the statement delivered by the President of the Republic of Côte d'Ivoire on 6 October 2006, in which he outlined the main points to the Summit of Heads of State and Government of the Economic Community of West African States (ECOWAS) (see annex).

I would be most grateful if you could circulate this letter as a document of the Security Council.

(*Signed*) Philippe **Djangone-Bi**
Ambassador
Permanent Representative

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Annex to the letter dated 27 October 2006 from the Permanent Representative of Côte d'Ivoire to the United Nations addressed to the President of the Security Council

Complete text of the statement delivered by the President of the Republic of Côte d'Ivoire in which he outlined the main points to the Summit of Heads of State and Government of the Economic Community of West African States (ECOWAS), at Abuja on 6 October 2006

- Your Excellency, Chairman of the African Union,

- Your Excellency, Chairman of the ECOWAS Authority,

- Your Excellencies, Heads of State and Government, Country- Members of our Sub regional organization,

- Your Excellencies, Heads of delegations, representing the Heads of State or Government of their countries,

Distinguished Ladies and Gentlemen,

My country, Côte d'Ivoire is faced with a crisis since September 19th 2002.

What is happening to Côte d'Ivoire is a typical case of an aborted coup d'Etat which, with the support of foreign powers, has been transformed into a rebellion.
It is an aborted Coup d'Etat and the whole has identified it as such and condemned it.

These condemnations came from all over the world. Let me point out a few of them.

Here in the country, on December 12th 2002, the political parties members of the National Assembly released a joint declaration which reads as follows: *"We, PDCI-RDA,FPI,PIT,RDR,UDPCI,UDCY, MFA political parties represented at the National Assembly, in the Government, at the Social and Economic Council, in the General and Municipal Councils again and firmly condemn the coup attempt of September 19th 2002 and all forms of access to power by force."*

At the sub regional level, the condemnations of the coup d'Etat were diverse and numerous.

On September 20th 2002, the day after the coup attempt, Dr. Mohamed Ibn CHAMBAS, Executive Secretary of the ECOWAS condemned it by stating that *" all access to power must be done through free, fair and transparent elections"*.

The same day, during his visit in Paris, President Abdoulaye WADE, Chairman in office of the ECOWAS has *"condemned the Coup attempt and made a solemn appeal for calm and the strict respect of the constitutional order in this sister country"*.

On September 22nd 2002, the ECOWAS sent a mission in Côte d'Ivoire including the duly accredited representatives of the Heads of State of Ghana, Nigeria and Togo, who reiterated their *"firm rejection of all forms of action triggering an anti-constitutional change in the countries of the sub region and [their condemnation of] the aggression perpetrated against the government and the people of Côte d'Ivoire"*.

On September 29th 2002, an Extraordinary Summit of the ECOWAS was held in Accra. The following Heads of State attended this Summit:

- Blaise COMPAORE of Burkina Faso;
- Verona RODRIGUES Pires of Cabe Verte;
- John KUFUOR of Ghana;
- Koumba YALA of Guinea Bissau;
- Charles TAYLOR of Liberia;
- Amadou Toumani TOURE of Mali;
- Mamadou TANDJA of Niger;
- Olusegun OBASANJO of Nigeria;
- Abdoulaye WADE of Senegal;
- GNASSINGBE Eyadema of Togo.

Mrs Aissatou NJIE, Vice – President of the Gambia, Mr. Bruno AMOUSSOU, Senior Minister of Benin, Mr. François FALL, Minister of Foreign Affairs of Guinea, Mr. Mohamad Lamine CAMARA, Deputy Minister of Foreign Affairs of Sierra Leone were duly accredited representatives of President Yaya JAMEH of the Gambia, President Mathieu KEREKOU of Benin, President Lansana CONTE of Guinea and President Tejan KABBAH of Sierra Leone.

The Summit was held in the presence of:

- Mr. Thabo M'BEKI, President of the Republic of South Africa and current Chairman of the African Union;
- Mr. Amara ESSY, Chairman of the African Union Commission;
- Mr. Ahmedou OULD ABDALLAH, representative of the UN Secretary General for West Africa.

This summit, known today as the Accra I summit has *"firmly condemned the attempt of destabilization of democracy and the constitutional legality in Côte d'Ivoire"* and *"reaffirmed the position of ECOWAS which says that "no recognition will be accorded to any government which will access to power by overthrowing a democratically elect government or by using anti-constitutional means."*

On January 31st 2003, during its 26th Ordinary Session of the Conference of Heads of State and Government, the ECOWAS, in the item 44 of the Final Communiqué, *"reaffirmed its support for the elect President of Côte d'Ivoire, His Excellency Laurent Gbagbo"*.

Almost all the Heads of States who attended the Ordinary Session when our sub regional organization took these decisions are still in office today.

The African Union has also released a declaration on the aborted coup d'Etat.

On September 24th 2002, the African Union released a Communiqué in which it is stated that the AU *"condemns firmly the coup attempt and the destabilization of the constitutional legality in Côte d'Ivoire and expresses its support and solidarity to the Government and the people of Côte d'Ivoire"*.

On September 27th 2002, the Chairman of the African Union Commission Mr. Amara ESSY, has, in a declaration released in Abidjan, indicated that *"it is unacceptable today to allow some insurgents to come to power by Coup d'Etat"*

On September 24th 2002, just five 5 days after the coup attempt, Mr. Ahmedou OULD ABDALLAH, Duly Representative of the Secretary General of the UN for West Africa condemned the coup d'Etat with these words : *" the coup d'Etat is a 'waste', we did not need what occurred in Côte d'Ivoire knowing that all crisis always ends [...] West Africa in general and Côte d'Ivoire in particular do not need to suffer from instability. Nobody wins in such a case, neither the opposition nor the authorities of this region"*

Some country – members of the UN Security Council have also condemned this coup d'Etat.
On September 20th 2002, the French Minister for Cooperation Mr. Pierre-André Witzer made a declaration through the public French radio RFI, stating that *" it is in the best interest of all Ivorians to live together, to work and progress in the framework and the respect of public liberties and of the institutions"*

On December 15th 2002, The French Minister of Foreign Affairs, Mr. Dominique De VILLEPIN, denounced *"foreign interference in the crisis in Côte d'Ivoire"*

On October 9th 2002, Mr. Walter KANSTEINER, Deputy Secretary of State for African Affairs, in the name of the government of the United States of America released a communiqué in which he affirmed that *" the United States has on many occasions condemned the attempts to overthrow any democratically elect government."* He added that *" in a democratic society, all differences must be resolved through a democratic political process"*

Your Excellencies,

In addition to the condemnations that I just quoted, our sub regional organization ECOWAS has done more on the field, right from the beginning of the crisis in Côte d'Ivoire.

First, it has mandated our brother and colleague, President Abdoulaye WADE who, on October 17th 2002, through the mediation of his Foreign Minister, Mr. Cheik Tidiane GADIO, facilitated the signing of a cease-fire, with what has now become, because the aborted coup d'Etat, a rebellion.

The ECOWAS has also set a contact Group led by the late President GNASSINGBE Eyadema (May his soul rest in peace), and undertaken negotiations for peace between the rebellion and the Ivorian authorities.

The negotiations of Lomé took place from October 28th to December 24th 2002. That is to say 54 days.

I have personally composed the delegation which participated in the Lomé talks. It was led by Mr. Laurent Dona FOLOGO, a key political figure in Côte d'Ivoire, Chairman of the Economic and Social Council and member of the PDCI-RDA.
The delegation included Ministers from the Government, MPS from all the political parties represented at the National Assembly, Officers of our National Army, police force and Gendarmerie, members of the Social and Economic Council and other State corps.

I have commended the late President GNASSINGBE Eyadema for the way he led the Lomé Talks. He, regularly, kept me posted with the state of his mediation and demonstrated through the negotiations his willingness to restore peace in my country.

I placed a lot hope and expectations in the mediation of President GNASSINGBE Eyadema, because it was an African mediation. This is why I deeply regretted the fact that this African mediation, that is to say the resolution of a conflict in an African country, was abandoned by ECOWAS, by Africa.

At the time when President GNASSINGBE Eyadema was leading the peace talks and himself and the press announcing that a peace agreement was about to be signed in a few hours to come, France released a statement saying it was convening a round table in Paris on the Ivorian crisis, thus, abruptly interrupting the promising and African negotiations of President EYADEMA.

I am quite convinced that had the resolution of the crisis remained on the African soil and in the hands on the ECOWAS, we would have already had peace in my country.

Unfortunately, the resolution of this African crisis was left in the hands of France which, to end a rebellion in a state, convened a meeting with the leaders of the rebellion and some political parties, which as we all know are private organizations competing to access to power.

Why did the French authorities ignore the legal and state authorities of the country to facilitate the signing of an agreement between the political parties and the rebellion, and thus legitimizing the rebellion?

Time will tell.

Right after the round table of Paris known as the round table of Linas-Marcoussis, because it was held within the premises of a rugby training camp, France convened at Kléber an international Conference on the situation in Côte d'Ivoire. At this Conference I was asked to endorse the Linas – Marcoussis Agreement.

The Linas –Marcoussis Agreement requested that I take the following measures:

- The dissolution of a government of national unity that I just formed on August 5th 2002 and which included members of all the main political parties in the country;
- The appointment of a new Prime Minister of consensus;

- The formation of a Government of National reconciliation including members of the rebellion et of the political parties which attended the Linas – Marcoussis round table;

- I was asked to take legislative measures in the following areas:
  - Identification of individuals and the status and stay of foreign nationals;
  - Rights and Freedoms of the Individual;
  - Land tenure regime
  - Status of the political parties and the opposition;
  - Electoral system
  - Legal Status of the Media
  - Citizenship

The Linas –Marcoussis also requested that I take new measures, namely:

- The amendment of the Constitution so as to make the former Prime Minister Alassane OUATTARA eligible, on whom the highest jurisdiction of Côte d'Ivoire has rendered a decision of eligibility;
- The delegation of some of the executive powers to the Prime Minister to help him discharge his duties;
- A law of amnesty to make the rebels feel confident with the peace process and accept to join the government. But, above all to permit them to engage, without any worry for their life and liberty, in the only task they have been committed by the Linas –Marcoussis Agreement: The Disarmament.

In fact, the Linas-Marcous requested only one thing from the rebels: the Agreement demanded that they disarm to permit the reunification of the country for the holding of the elections, since the Constitution of Côte d'Ivoire does not authorize any election to be held as long as the territorial integrity of the country is undermined. This situation was confirmed by the Constitutional Council of Côte d'Ivoire in its decision #003/CC/SG of December 17th 2003 which reads as follows: " *the situation in Côte d'Ivoire since September 19th 2002 is an attack of the country's national integrity[ ] consequently, an election cannot be held on the whole or part of the national territory* "

As soon as I came from the Kleber Conference, I addressed the nation and asked my fellow countrymen to endorse the Linas –Marcoussis Agreement which will bring peace and the reunification of the country just as a patient takes a very bitter medicine to heal from his sickness.

Your Excellencies,

I will never hide the fact when I was coming into office in October 2000, Côte d'Ivoire was confronted with some pending old and profound problems resulting from the ruling and governance of my predecessors.
Allow me to mention a few of them:

-The first problem is the question of immigration and a strong presence of foreign nationals on our soil.

-The second problem is the use of the foreign nationals for political purposes.

-The third problem is the manipulation for political purposes of ethnical and religious sentiments and ties by some political leaders.

-The fourth problem is related to the matter of the identification of individuals living in Côte d'Ivoire and this matter is been pending for the last 15 years.

-The fifth problem is about the rivalry among the political heirs of the late President Félix Houphouët Boigny. They are President Henri Konan BEDIE, the late Gl Robert GUEI and the former Prime Minister Alassane Dramane OUATTARA.

It is to find a remedy to all these contradictions and to other issues that right after taking my oath, I decided to form a government of national unity to which only the RDR, the party of Mr. Alassane Dramane OUATTARA, refused to join.

I met in Yamoussoukro the former President Henri Konan BEDIE, the former Prime Minister Alassane Dramane OUATTARA and the former Head of State GL. Robert GUEI to set the foundation conducive for a climate of détente in the political environment.

I also organized the Forum of national reconciliation, chaired by the former Prime Minister Seydou DIARRA. During these sessions all the people who had something to say to the nation, all the people who had some grievances against someone or the society were free to express themselves publicly. The debates of the Forum were broadcasted live on national television and radio.

I initiated a policy of decentralization not only to give a boost to the development of the country but also to share power and thus absorb some ambitions.

On August 5th 2002, after the Forum of national reconciliation, I formed a government of national unity and the RDR finally agreed to join the new government. All the political leaders, who voluntarily went to exile or were forced to exile because of the military transition of Gl GUEI came back home. I applauded their return and had the feeling that now was the time to tackle the questions of development.

But, it was at that very moment that people tried to overthrow me and my government on September 19th 2002, 45 days after the forming of the government of national unity on August 5th 2002.

Your Excellencies, Heads of State and Government,
Distinguished Heads of delegations,
Ladies and gentlemen,

Having endorsed the Linas – Marcoussis Agreement I resolutely committed myself to its implementation, one task after the other.

I have facilitated the vote by the National Assembly of the laws recommended by the Marcoussis Agreement, including the amnesty law, after forming the Government of National Reconciliation in March 2003.
The year 2003 went by and we were heading towards the end of the year 2004 without seeing the commencement of the disarmament which according to the Linas-Marcoussis Agreement must have started right after the forming of the Government of National Reconciliation. The rebels refused to implement the only task they were committed to, on the ground that the Prime Minister of the Government of National Reconciliation was not granted enough powers.

A high level Conference was convened by the UN Secretary General, first in Addis Ababa, on the fringe of the AU conference and later on in Accra. Many African Heads of State attended the conference co-chaired by the UN Secretary General in person. During this conference, the Prime Minister Seydou DIARRA admitted that the powers granted to him sufficed for him to fulfil his mission. This is clearly stated in the Accra III Agreement which concluded our meeting in the Ghanaian Capitol, on July 30th 2004.

The Accra III Agreement also stressed that the rebels should have disarmed by October 15th 2004. But once again the rebel rejected any idea of disarmament and began to scoff at the nation.

I therefore committed my army to free the country and reunify it. Air strikes were used. And according to the report released by the UNOCI on November 9th 2004, they triggered exclusively military targets. My soldiers were already in Bouaké and they encountered no form of resistance. Soro Guillaume fled and found refuge in Lomé and his combatants all disappeared from the field. It was at that moment that France announced the death of nine of its soldiers and held the Ivorian air force responsible for this deed.

The French President Jacques CHIRAC, without even requesting for an investigation, ordered the destruction on the ground of the aircrafts of the Ivorian Air Force and the bombardment of the residence of the late President Félix HOUPHOUET – BOIGNY in Yamoussoukro and the Presidential Palace in Abidjan.
At the same time, the pilots of the incriminated aircraft, Russian experts were captured and later on released by the French Army based in Abidjan.

The Ivorians invaded the street to protest against the behaviour of France. The French soldiers opened fire many times on the crowd of peaceful demonstrators, sometimes from their helicopters. We deplored tens of deaths and hundreds of wounded. The peace process was again blocked.

I would like to stress that after almost two years of this massacre the French judicial system has not yet concluded its investigations and the French judicial authorities refused to cooperate and continue to prevent the Ivorian Judicial system from carrying out its own investigations.

It is in these circumstances that the President of South Africa, His Excellency Thabo MBEKI arrived as the AU Mediator in the Ivorian crisis. He was appointed by President Olusegun OBASANJO, who was then Chairman of the African Union.

I did not know President Thabo MBEKI before his appointment as Mediator in the crisis to which my country is confronted since September 2002. He came to Abidjan for the first time on November 9th 2004 at the time when the French soldiers were massacring my people. He went back home the same day. He came back again a few days later and spent 4 days in the country. During his stay, he met, consulted and talked with all the protagonists.

When he understood the complexity of the conflict in Côte d'Ivoire and clearly identified the blockades, he drafted a roadmap that he distributed to all the different parties before he returned to his country.
After the implementation of the roadmap, that I was actually the only one who did fulfil his commitments and achieve his tasks, President Thabo MBEKI invited the Ivorian parties to Pretoria to find a peace agreement. For three days, the real protagonists of the Ivorian crisis have talked and talked to one another. These talks resulted in the signing of what is known today as the Pretoria Agreement.
Like all the other agreements, the one of Pretoria was also simple and requested some concessions from me which were incredible one after the other.
Thus, for peace in the country, the country of all of us and at the request of my opposition:

- I had to exceptionally accept the forming of a new Electoral Commission composed of the political parties and rebel movements in replacement of the Electoral Commission established according to the law. What is even more amazing is that by accepting this arrangement, I was giving a majority of the deliberative votes to the rebels and their political allies. Today, this new commission is in place. The rebellion and the civil opposition are the majority in the Electoral Commission and the Chairman of this Commission is a member of the PDCI.
- I was asked to give to my civil and armed opposition the Management of the national radio and television stations. With this arrangement, the rebels not only control the radio and television stations they created in the besieged zones but, paradoxically, they also control the stations that the Republic fought hard to safeguard during their criminal attacks in Abidjan.
- I was also asked to use the exceptional powers vested upon me, as President of the Republic, by Article 48 of the Constitution to declare Mr. Alassane Dramane OUATTARA, eligible for the Presidential election. His candidacy was rejected during the Presidential election of October 2000 that I won.
Thus,it is important to stress that when Mr. Alassane Dramane OUATTARA was not authorized to take part in the 2000 presidential election, I was not in office. Today, Mr. Alassane Dramane OUATTARA can run for President by virtue of the decision that I took in his favour, with the powers vested upon me by Article 48 of the Constitution. Only by virtue of this decision.

I was asked to accept the appointment of a UN High Representative for the elections, whose role is to guaranty the impartiality of the electoral process, a position that exists nowhere in the world.

In return of all these arrangements and concessions the rebellion was to accept the disarmament.
In the same period and under the aegis of the Mediator, the Ivorian National Assembly has examined and achieved the programme of the legislative reforms that were proposed by the Marcoussis Agreement. Thus, by December 17 2004, the following 12 laws were passed:

1. The law of amnesty # 2003 – 309 of August 8th 2003;
2. The law on the identification of persons and the status of the foreign nationals in Côte d'Ivoire. April 23rd 2004;
3. The law on the creation, organization and functioning of the National Commission for Human Rights. April 23rd 2004;
4. The law amending the law on the identification of persons and the status and stay of foreign nationals in Côte D'Ivoire. May 3rd 2004;
5. The law authorizing the President of the Republic to ratify the additional protocol on the free circulation of persons, the right for residence and establishment. July 27th 2004;
6. The law amending Article 26 related to the land tenure regime. August 3rd 2004;
7. The law on the declaration of the assets of the President of the Republic. July 28th 2004;
8. The law related to the financing of the political parties and organizations and of the electoral campaigns on public funds;
9. The law amending the law related to the composition, organization, prerogatives and functioning of the Independent Electoral Commission. December 14th 2004;
10. The law on the legal status of the written press;
11. The law on the legal status of the audio visual communication;
12. The law amending and completing the Code of Nationality. December 17th 2004.

When the National Assembly passed these laws, the rebellion and the opposition declared that they were not consistent with the spirit and the letter of the Linas-Marcoussis Agreement.

Face with the persistence of this debate, President Thabo MBEKI appointed some legal experts from Burundi to review the passed laws and the grievances of the opposition regarding these laws. In view of their deliberations and determinations, the Mediator asked me to use the exceptional powers vested upon me by Article 48 of the Constitution to amend the laws passed by the National Assembly.

I did amend these laws according to the recommendations of the Mediator on July 15 2005 by taking 06 decisions.

1. Decision # 2005-03/PR of July 15th 2005 related to the Code of Nationality.
2. Decision #2005-04/PR of July 15th 2005 on special provisions regarding citizenship.
3. Decision#2005-05/PR of July 15th 2005 related to the Identification of persons and the status of foreign nationals in Côte d'Ivoire.
4. Decision # 2005-06/PR of July 15th 2005 related to the Independent Electoral Commission.
5. Decision #2005-07/PR of July 15th 2005 related to the financing on public funds of political parties and organizations and of the candidates to the presidential elections.
6. Decision # 2005-08/PR of July 15th 2005 related to the creation of the National Commission for Human Rights in Côte d'Ivoire.

After these amendments, the rebels and the opposition declared that some provisions related to the decisions I had taken were to be clarified. They even wrote to the Mediator and proposed to him the way these decisions had to be drafted.

Again, at the request of the Mediator, on August 29 2005, I took three new decisions making some clarifications on the laws on:

1. Decision # 2005-09/PR of August 29th 2005 related to the Citizenship Code.
2. Decision#2005-10/PR of August 29th 2005 related to the special provisions regarding citizenship.
3. Decision #2005-11/PR of August 29th 2005 related to the Independent Electoral Commission.

It is based on all these achievements on my part that the Mediator during the presentation of his report before the UN Security Council, on August 31st 2005, said that the President of the Republic had entirely implemented all the signed agreements and that among all the signatories of these agreements, I was the only one who had fulfilled my commitments vis a vis the signed agreements.
In the name of the Mediator and President of the Republic of South Africa, the Minister of Defence declared before the UN Security Council:" *all the agreements, necessary to lift all the obstacles for the implementation of the Agreements have been finalized*" and he insisted that " *the decisions taken by the UN Security Council, according to which appropriate sanctions will be imposed against any party which fails to implement the signed agreements and thus, blocks the peace process must be implemented* "

What the Mediator was then saying was that there was only task left to complete the peace process: the disarmament. And that the rebels and the opposition who did not want the disarmament to take place were impeding the implementation of the agreements, therefore sanctions must be imposed against them. Up to now no sanction has been taken against them.

A dirty and obnoxious media campaign is today launched by the rebellion, the political parties which support them and all those outside our country who offer the rebels support by providing them with diplomatic passports, money, connections and travelling means.
According to this campaign, the Mediator, President Thabo MBEKI had become partial and partisan in my favour.
When the President of the Republic of South Africa was appointed Mediator by the African Union, everybody, including the rebellion, their allies, the political parties, and all the international organizations, of which Côte d'Ivoire is a full member, welcomed and applauded his appointment. He discharged his responsibilities and mission as Mediator with serenity and determination despite regular and unjust verbal attacks from the rebels and their allies. He acted with tact, respect and diplomacy in his interaction with the different parties and has, in the end, obtained positive results. In no circumstances, had the Mediator made public declarations or statements against one or the other party of the conflict.
President Thabo MBEKI is a very good Mediator. I find it unacceptable and will not accept that he be treated with so much wickedness and his name spoiled, simply because he refused to join the clan of the people whose obsession in the peace process is to overthrow GBAGBO.
I find it unacceptable and will not accept that the rebels and the opposition parties, who, thanks to the mediation of President Thabo MBEKI, have become eligible, control the national Radio and television channels and have the majority in the Independent Electoral Commission, now pay him back with the ingratitude that characterises people of no honour.

After the presentation of the report of the Mediator before the UN Security Council, the AU Peace and Security Council convened a meeting on October 06th 2005 in Addis-Ababa and produced a communiqué which constituted the substance of the UN Security Council Resolution 1633. The last line of this communiqué states that the AU Peace and Security Council *"decides to remain seized of the matter"*.
Therefore, the conclusions of our deliberations today, and I am sure everyone here understands that, will be addressed to the AU Peace and Security Council. I have already written to the Chairman of the African Union, present here, and asked him to convene this meeting.

What does the UN resolution 1633 say?

After reaffirming its strong commitment to the sovereignty, independence, territorial integrity and unity of Côte d'Ivoire, the United Nations Organization considers

At the paragraph 12 of the Resolution that *"additional measures are required to expedite the implementation of some provisions of the Linas –Marcoussis, Accra III and Pretoria Agreements, in particular the DDR process, the dismantling and disarmament of the militias and the creation of conditions for holding free, fair, open*

and transparent elections, including the identification process and registration of voters."

The UN Resolution 1633 also requests therefore, at his paragraph 13, *"the International Working Group to draw up as soon as possible a road map in consultation with all Ivorian parties, with a view to hold free, fair open and transparent elections as soon as possible and no later than October 31st 2006, concerning in particular:*

- *The appointment of a new Prime Minister as provided for in paragraph 5 above;*
- *The implementation of all outstanding issues as referred to in paragraph 12 above, recalling in this regard that the concomitant implementation of the identification process and the cantonment of the forces, as provided for in the national programme for Disarmament, Demobilization, Reinsertion and Rehabilitation signed in Yamoussoukro on May 14th 2005, would expedite the creation of conditions for holding free, fair, open and transparent elections".*

The United Nations Organization in the Paragraph 14 of its Resolution *"demands that the Forces Nouvelles (the rebellion) proceeds without delay with the DDR programme in order to facilitate the restoration of the authority of the State throughout the national territory, the reunification of the country and the organization of the elections as soon as possible".*
To discharge these missions the UNO demanded the appointment of a new Prime Minister and stressed, in the paragraph 8 of the UN resolution 1633, that *"the Prime Minister must have all the necessary powers according to the Linas Marcoussis Agreement and all the governmental financial, material and human resources, particularly with regard to security, defence and electoral matters, to ensure the effective functioning of the Government, to guarantee security and the redeployment of the administration and public services throughout the territory of Côte d'Ivoire, to lead the programme of Disarmament, Demobilization and Reintegration (DDR) and the operations of disarmament and dismantling of militias and to ensure the fairness of the identification process and of the voter registration, leading to the organization of free, open, fair and transparent elections, with the support of the United Nations"*
And the UN security Council to reiterated, in paragraph 7," *the importance of having all ministers to participate fully in the Government of National Reconciliation ... when a minister is not participating fully in the Government of National Reconciliation, his or her portfolio should be assumed by the Prime Minister and requests the International Working Group to monitor closely the situation in this regard".*

Thus, the UN Resolution 1633 did not request anything from the President if not that he should ensure that *"the Prime Minister has all the necessary powers ... and all the governmental financial, material and human resources to discharge his mission".*
In order not to obstruct the Prime Minister's work and after appointing Mr. Charles Konan Banny Prime Minister, I accepted that he assumes the portfolios of Minister of Finance and Communication. I also authorized him to choose the personalities who would assume the functions of Minister of Defence, Interior competent for security matters. And for the last reshuffle of the government I agreed at his request to appoint a member of his office as Minister of the Administration of the Territory. During the same reshuffle, two new Secretaries of State have been appointed by

him. One assumes the portfolio of Good Governance and the second that of civil protection and safety.

Your Excellencies,

As of today, the Prime Minister, Mr Charles Konan BANNY has not been denied of any power or financial resources to discharge his mission.

Neither the President of the Republic nor any other State institution or personality has obstructed the work and mission of the Prime Minister, except the rebels.

The condition that prevailed for the appointment of the new Prime Minister was that he or she must be acceptable to all parties, including the rebels.
I agreed with this condition thinking that if the opinion of the rebels was to be taken into account for the appointment of the new Prime Minister it would signify that the Prime Minister would have full authority over his cabinet and over the whole national territory to discharge his mission. If not, why ask for the opinion of the rebels before appointing a Prime Minister?

Unfortunately, Prime Minister BANNY, like his predecessor Mr. Seydou DIARRA, has never had any authority over the besieged zone, the rebels and the rebellion itself.

Let me give you some examples:

1° The Paragraph 7 of the UN resolution 1633 states clearly that all Ministers fully participate in the activities of the Government of National Reconciliation. And when a minister is not participating fully in the Government of National Reconciliation, his or her portfolio should be assumed by the Prime Minister. Mr. SORO Guillaume, leader of the rebellion and Senior Minister, has been boycotting, since December 2005, for over six months, the Cabinet meetings.

2° The roadmap of the International Working Group clearly stresses that the disarmament was to be completed by March 31st 2006. Up to now this disarmament has not commenced.

But this is not the first time that the rebels refuse to disarmament:

- The rebels agreed and indicated to the Prime Minister Seydou DIARRA that they would disarm on March 8th 2004, that is to say right after the forming of the Government of National Unity as stipulated in the Linas –Marcoussis Agreement ;
- The Accra III Agreement has stressed that the disarmament should be completed by October 15th the latest. This date has not been respected either,

3° The Prime Minister has instituted and organized military talks between the national defence and security forces and the rebellion, in view of the disarmament requested by the UNO and stated in the paragraph 14 of the Resolution 1633.
The rebels walked out of the talks and in a declaration dated August 8th 2006, rejected any disarmament programme. Recently, they have clarified their refusal to comply with the UN Resolution 1633 through a statement made by SORO Guillaume during a public conference in New York, USA, on September 23rd 2006. This is exactly what SORO said " We will not disarm. We did not fight and conquer 60% of the national territory to disarm. A land one conquers by war is never given back"

4° The Prime Minister has launched the programme of the redeployment of the administration by asking the Prefects and Sub-prefects to return to their posts in the besieged zones, in view of the organization of the *audiences foraines*, the identification and electoral census. First, the rebels supported the decision of the Prime Minister but later on released a statement on September 2nd 2006, in which they banned access to the occupied zones to the civil servants and administrators of the Republic.

5° The Prime Minister declared on July 13th 2006, the free circulation throughout the national territory of persons and their properties. The rebels, through a press statement released on September 2nd 2006 expressed their opposition to the declaration of the Prime Minister.

6° Last but not the least, the Prime Minister produced and published two documents:

- The Practical Guide on the *audiences foraines*,
- The Practical and legal provisions related to the issuing of the Citizenship Certificates.

These two documents are consistent with the laws in force, namely the law #61-155 of December 14 1961 related to the Citizenship Code.

I supported these documents because they were consistent with the laws in force.
What do these laws say?

The law on the organization of the judicial system stipulates that the *audiences foraines* are organized, on the one hand, to issue, exclusively, the *jugements supplétifs* of birth and the *jugements supplétifs* of deaths, and on the other hand, the legal system also stresses that the judges discharge their mission and tasks at the seat of the jurisdiction were they have been appointed. They can leave the tribunal and discharge their mission and tasks out the tribunal only in limited and specific cases prescribed and authorized by the law.

The law on the citizenship code prescribes the impossibility to issue the citizenship certificates outside the seats of the tribunals. It is, therefore, within these premises and only within these premises that the presidents of the tribunals and the magistrates that they mandate can issue the certificates of citizenship and nowhere else. These are the legal principals which sustained the drafting of these documents published by the Prime Minister.

The rebels who are in charge of the Ministry of Justice are opposed to these laws. In a declaration made public on August 17th 2006, they demanded that during the *audiences foraines*, organized to issue only *jugements supplétifs*, the people be issued at the same time their certificates on citizenship, in the occupied zone, were the rebels are still holding arms and where the disarmament has not commenced.

How can the judges render justice if they are under the authority of the rebels?

Since their demand was not met, the rebels refused to implement these documents published by the Prime Minister and rejected the initiative of the Prime Minister during a public conference pronounced by SORO Guillaume on August 9th 2006.

Some dangerous individuals took arms to remove from power the democratically elect government and having failed in their attempt to overthrow this government and destroy the institutions on which our nation stands, they continue to occupy one part of the national territory.
They are asked to lay down their arms and join the very institutions they intended to overthrow, working side by side with the legal and elect authorities that they planned to overthrow and killed some of them.

Your Excellencies,

The rebels did not lay down their weapons. On the contrary, the Ministers they chose to be in the government and who are for some of them illiterate and the Ministers of the political parties which support them, have, for the past four years, done everything possible to undermine the state authority and achieve their goal to overthrow the legal institutions of the country, an agenda they could not complete with their arms during the coup d'Etat.

With the UN Resolution 1633 which established the International Working Group, whose mission is to identify the blockades and the persons responsible for these blockades and make recommendations to the UN Security Council, in view of them being imposed some sanctions, the people of Côte d'Ivoire had hoped for the best and rightfully anticipated the end of the crisis.

Unfortunately, instead of condemning the rebels for their incipient obstructions and blockades to the peace process and make recommendations to the UN Security Council for appropriated sanctions to be imposed on them, the IWG prefers to have sanctions be rather imposed on the Chairman of my political party and the Speaker of the National Assembly, simply because they asked for a strict and rigorous implementation of the laws of the Republic.

Indeed, The UN Resolution 1633 states clearly the mission of the International Working Group as follows. The International Working Group must:

- draw up a road map for the implementation of the issues that are still outstanding within a very precise time frame.

- ensure that the Prime Minister has all the necessary powers and resources to discharge his mission and report to the Security Council any hindrance or difficulty which the Prime Minister may face in implementing his tasks and to identify those responsible;

- ensure that the Ivorian institutions function normally until the holding of the election in Côte d'Ivoire.

The whole thing about the mission of the IWG, is to ensure the implementation of the UN Resolution 1633, the peace Agreements, the Constitution on which our nation stands, and the laws of Côte d'Ivoire which the UNO, the AU and the ECOWAS refer to in all the texts signed during the peace process in Côte d'Ivoire.

Our hope dropped down rapidly right after the first meetings of the IWG. The International Working Group quickly deviated from its mission and tasks to give itself prerogatives that the UNO, the AU and the ECOWAS did not grant to it, including granting to the Prime Minister powers that are not stated neither in the UN Resolution 1633, nor in the Constitution and the laws of Côte d'Ivoire.

In the communiqué of its first meeting on November 8th 2005, the IWG *"considers that the resolution confers to the Prime Minister ... some personal powers. He (the Prime Minister) has the necessary competence and powers to manage the administration, civil and military, to appoint or revoke the Management of these administrations and control the financial resources."*

This assertion is a flagrant and serious violation of the UN Resolution 1633 and the Constitution of the Republic of Côte d'Ivoire. The UN resolution only stresses that the Prime Minister *"must have all the necessary powers according to the Linas – Marcoussis Agreement..."*

The Linas Marcoussis Agreement stipulates that to discharge his mission, the Prime Minister *"will have executive powers in accordance with the delegation of authority provided for in the Constitution..."*

Article 41 of the Constitution of the Republic of Côte d'Ivoire is clear about this issue. *" The President of the Republic is the exclusive holder of the executive power. He appoints the Prime Minister, Head of the government, who is accountable to him. He terminates the functions of the Prime Minister."*

The delegation of powers that those who drafted the Linas-Marcoussis Agreement talk about is stated in Article 53 of the Constitution. According to the Constitution, *"The President of the Republic can, with a decree, delegate some of his powers to the members of the government..."*

By making a determination on the constitutional powers of the Prime Minister, the IWG had a plan. The objective of the IWG's plan was to complete the aborted coup d'Etat of September 19th 2002.
Through their communiqué, the IWG wanted to amend subtly and underhandedly the Constitutional of the Republic of Côte d'Ivoire.

Having failed in its attempt to amend the Constitution, from its first meeting of November 8th 2005, to its last meeting of September 8th 2006, the International Working Group established by the UN Resolution 1633 has, in the paragraph 5 of its communiqué, identified the *"profound and persisting"* blockades which according to it, represent a serious threat on the security and humanitarian situation in the country. Searching for the causes of this blockade, the IWG asserts that they are the result of the" *impossibility for the Prime Minister to exercise the powers that were granted to him by the UN Resolution 1633, especially in the appointments for civil and military jobs."*
In addition, the IWG underscores the *"urgency to adopt exceptional and derogatory measures in order to put the peace process back on track and permit the issuing of jugements supplétifs and certificates of citizenship without delay and equitably "*

To achieve this task the IWG requests that *"new institutional arrangements of governance be envisaged for the period post October 31st 2006 to ensure the efficient functioning of the transition and a republican conduct for the security forces"*

The plan of the IWG to overthrow me has now come to light. Through the terms of this communiqué the IWG is asking the international organizations, to which my country belongs, to take a decision of transfer of the powers of the executive, appointments to civil and military functions, among others, to the Prime Minister. If such a decision is taken, it will allow the Prime Minister to appointment the Army-Chief of Staff, the commander of the police force and of the gendarmerie, after having consulted with the rebellion. Thus, I would have been removed from power and the coup d'Etat would have been completed.

This plan aims at nothing but at the suspension of the constitution as requested by the rebels and the access to power through anti democratic and anti constitutional disguised in the form of deliberations of a sub regional or regional or international organization.

The IWG and all those who are celebrating in advance this perspective fail to measure the level of this pretension and are unequipped to realise the consequences and the disasters that such a decision would generate if by extraordinary it was taken.

In any case, it is clear to us that the State institutions that the IWG wants to destabilize are institutions established through elections, namely: the National Assembly, the President of the Republic and the Constitution.

Your Excellencies,

ECOWAS, our organization, which states in its charter that its mission is *"to promote cooperation and integration in order to create the Economic Union of West Africa which aim will be to improve the living condition of its people, to maintain and increase economic stability, to strengthen the relations among the member States and to participate in the progress and development of Africa"* ,cannot be part of such a forfeiture. First, because our texts do not allow such sordid and illegal manoeuvring. As we all know, the decisions of the conference are, according to Article 9 of the revised treaty of ECOWAS, taken by unanimous vote, by consensus or at the majority of the 2/3 of the member States. It is said the subjects are defined in a protocol and unless the protocol defining these subjects is in force, the decisions of the Conference are taken by consensus.
If this consensus, based on the plan to transfer all the powers of the elect President to a Prime Minister I have appointed, was to occur in my presence, this consensus will be obtained without me. Therefore, it will not be a consensus.

In all the texts which govern our organization, especially in the texts related to the Protocol on the Mechanism of prevention, Management and Resolution of conflicts, of Peace Keeping and Security, it is said that our organization works for *"the promotion and consolidation of a democratic government and institutions in each member State ... the legality of the sovereign States, the territorial integrity and the political independence of all the members States"*.

In addition, during a meeting in Lomé from July 10th and 12th 2000, the Heads of State and Government of the Organization of the African Unity, have adopted a declaration related to the framework of the OAU reaction when faced with a situation of anti constitutional change of government.
In this declaration, our regional organization has underscored the *"respect of the Constitution and some provisions in the laws and other legislative acts passed by the Parliament"*.

To implement these principles, we have decided to identify the situations that could be considered as anti constitutional change of government as follows:

- First, a military coup d'Etat against a democratic elect government;
- Second, a mercenary attack to oust from power a democratic elect government;
- Third, an attack perpetrated by a group of rebels and army dissidents in view of removing a democratic elect government from power.

It is obvious that the situation in Côte d'Ivoire belongs to all three situations.

It is with regard to all these principles that , right from the beginning of the crisis in my country, you have all condemned the coup attempt. The texts that you adopted still exist

Let me quote two of them

- The final communiqué of the Extraordinary Summit of Heads of State and Government on the situation in Côte d'Ivoire. This Summit is referred to today as the Accra I Summit. In the final communiqué you *"firmly condemned the coup attempt, the undermining of democracy and the constitutional legality in Côte d'Ivoire" and you "reaffirmed the position of ECOWAS according to which no recognition will be granted to any government which will come to power by ousting a democratically elect government or by using anti constitutional means "*
- The final communiqué of the Conference of Heads of State and Government of ECOWAS, during its 26th ordinary session of January 31st 2003 states in its item 44 that the meeting *"reaffirmed its support and solidarity to the legal President of Côte d'Ivoire, His Excellency Laurent GBAGBO"*

This is the position you held then and this is the position that you ought to continue holding.

Those who want to overthrow me argue that my mandate is terminated and that there is a legal or constitutional 'vacuum'. This is the reason why the international organizations continue to set the duration of the transitional period. By doing this, these organizations are creating the conditions for the rebels not to disarm. For, they believe at the end of each period, the power is within their hand reach and to come to power, they just have to ask for my removal. This way, they can come to power with the help and support of the international organizations without winning any election.

I think we ought to end these proceedings because the Constitution of Côte d'Ivoire did not organize any legal 'vacuum'

The Constitution of Côte d'Ivoire was voted on July 23rd 2000 and promulgated on August 1st 2000.

I was not in office then. So no one can say that the Constitution was drafted to benefit me.

I also could not have anticipated that two years after my election, there will be a coup d'Etat to overthrow my government. But, the people of Côte d'Ivoire anticipated the uncertainties because it has learned from the coup d'Etat of 1999.

This is why article 38 of the Constitution reads as follows." *in case of serious events or circumstances affecting the territorial integrity or natural disaster making it impossible to organize the elections or proclaim their results, the Chairman in charge of the elections immediately seizes the Constitutional Council for its determination on the situation. The Constitutional Council decides within 24 hours the interruption of the electoral operations or the suspension of the proclamation of the results. The*

President of the Republic, through a national address, informs the nation. He remains in power.
In the case when the Constitutional Council orders the interruption of the electoral operations or decides the suspension of the proclamation of the results, the Commission in charge of the elections reviews and on a daily basis communicates to the Constitutional Council the state of the evolution of the situation. When the Constitutional Council observes that the events which led to the interruption of the electoral operations are no longer a threat for the proclamation of the results, it schedules another date which cannot exceed 30 (thirty) days for the proclamation and 90 (ninety) days for holding of elections."

Article 39 reads as follows." *The powers of the President in office end at the date when the elect President come into office which is immediately after he has taken his oath. Forty-eight hours after the proclamation of the final results, the elect President of the Republic takes his/her oath before the Constitutional Council during a solemn session( )*

These texts are very important and useful because with the provisions of article 34, the people of Côte d'Ivoire, has placed the President of the Republic also in the position of Head of State. As such, he represents the permanence of the institutions, symbolizes national unity, ensures the continuity of the State and the respect of the country's international commitments.

Thus, our Constitution is our last shield and I did not come to this meeting to discuss the possibility of its suspension or even evoke the possibility of ignoring it. Only the sovereign people of Côte d'Ivoire has the power to amend its Constitution. I refuse therefore, to have the Constitution of my country be debated at this meeting, especially with Heads of State of other countries who have their own Constitutions.

The Constitution of Côte d'Ivoire and the laws of the Republic will not be discussed at this conference.

At the request of the rebels, and to satisfy their demands, I implemented all the legislative and constitutional amendments. I was able to discharge this task, because the people of Côte d'Ivoire, through the Constitution, has vested upon me such a power. The amended laws and those which were not amended are the foundation of our legal system. And we cannot, to please the insatiable greed and the will of the every leader of the rebellion, amend, every week, the Constitution on which our nation stands.

The IWG also tried to destabilize our National Assembly. I do not understand this harassment. Indeed, the UN Resolution 1633 which establishes the IWG simply requested that this organization *"ensures that the Ivorian institutions function normally until the holding of the elections in Côte d'Ivoire"*.

The National Assembly is a very active dynamic and very democratic institution. I was in the opposition in my country before becoming President. Our current National Assembly, made of different parliamentary groups and where debates are hard and electric, has nothing in common with the one of the one party rule or dominant party.

There are 95 MPS from FPI, 82 from PDCI-RDA, 13 from LAYAUTE, 12 from UDPCI and 09 MPS from SOLIDARITY. There is no room for complaisance at the National Assembly of Côte d'Ivoire.

Unlike for the President of the Republic, the Constitution has no provision for the National Assembly in case of impossibility to hold elections.

However, when their mandate was reaching to an end, the MPS of all the parliamentary groups I have just mentioned adopted a text on December 12th 2005, requesting that their mandate be extended. When I received the correspondence, I asked for the ruling of the Constitutional Council, which is the institution that regulates the functioning of public powers.

The Constitutional Council in its ruling asserted *"that the National Assembly is one of the pillars of democracy in our country and that face with the impossibility to organize the elections the Constitutional Council recommends that it remains into function and functions normally."*

What exactly does the IWG reproach us with?
To be at war? Or to do our utmost so that our nation stands despite the war?

Some democratic countries have been confronted with a crisis before us. The followed exactly the same path we are following today.

- First, France: During the Second World War, the French government extended the mandate of its MPS by voting a law in 1939.

- Then, Lebanon: When the civil war broke out in 1975, the government ordered that the National Assembly remains into function until the year 1991 because of the impossibility to hold legislative elections in the country.

Our decision to maintain the National Assembly into function is an act of sovereignty. We consider that the functioning of our National Assembly is the condition for our survival as a State. Here also, we do not wish to discuss any issue related to the normal functioning of the National Assembly.

Last but not the least, the IWG also tackles the issue of the voters' rolls. According to the IWG, we must grant the citizenship of our country through exceptional measures so as to expedite the peace process and hold the elections.

By saying that, the members of the IWG show that they are not Ivorians and do not live here. If not such a proposal would not have come from them.

In Côte d'Ivoire, as well anywhere else in the world, the issue of citizenship is an ultra sensitive issue. It cannot and should not be discussed with such simplicity and cynicism.

The voters' roll in Côte d'Ivoire is permanent and public.
It is permanent because, contrary to the screaming we hear here and there, we do not establish new voters' rolls at the time of every election. The voters' roll is simply updated every year. The update concerns the adding of the people who have now reach the age to vote and the removal of those who have lost their right to vote or have passed away. This simple operation is done from the last census of the population.
If one person discovers that his/her name has been omitted, he or she will have to wait for the posting of the voters' rolls to file a complaint and have his/her name be added.

This is why, we say that the establishment of the voters' rolls is public. If someone claims that he has the right to have his name on the rolls, he has three months to file his claim before the poll. This period before the poll, also is an opportunity for the political parties or for any ordinary citizen to request that his / her name be added in the voters' rolls or even have the names of the persons who have no right to vote or have lost the status of voters be removed.
This annual updating of the voters' roll shows that in Côte d'Ivoire the electoral process is permanently and perpetually into motion.

It is also important to remind the IWG that the UN Resolution 1633 has not requested the identification of the whole population on our soil but, rather the identification and registration of the voters on the voters' rolls.

Your Excellencies,

For the past days, I hear here and there some declarations and each of the authors of these declarations believe he has been appointed to resolve the Ivorian crisis. And all of them continue to believe and assert that the resolution of this crisis is in the framework of the Linas –Marcoussis Agreement. Today, we can all agree that the peace process established from the Linas Marcoussis Agreement has failed. We also agree that it is important today to define a new framework to resolve the crisis.

Up to now no national authority has made any proposal to end the crisis. All the solutions, all the resolutions, all the agreements have all been initiated and inspired from outside our borders.

This failure leads me to agree with President Jacques Chirac when he says that no foreigners can bring peace in Côte d'Ivoire.

So, I have come here today to propose my peace plan based on the principle that the Ivorians must take possession of the peace process and seek for your support and solidarity to succeed.

This is my peace plan:

- Firm condemnation of the rebellion;
- Firm support of ECOWAS of the elect President of Côte d'Ivoire;
- Suppression of the buffer zone;
- Strict implementation of the Constitution;
- Forming of a government of national unity, which will not be built around party quotas;
- No fixation of the presidential mandate;
- Appointment of a new Prime Minister chosen by the President of the Republic to hold talks with the rebellion;
- Coverage of the national territory by the programmes of the national radio and television station.

Thank you

Laurent GBAGBO
President of the Republic of Côte d'Ivoire

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Security Council

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Letter dated 31 October 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached 6th report of Argentina submitted pursuant to paragraph 6 of resolution 1373 (2001), as well as Argentina's response to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

06-59672 (E) 171106 211106

Annex

Note verbale dated 26 October 2006 from the Permanent Mission of Argentina to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

[Original: Spanish]

The Permanent Mission of the Argentine Republic to the United Nations presents its compliments to the Office of the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) (Counter-Terrorism Committee) and has the honour to attach the report prepared by the Argentine Republic in response to note S/AC.40/2006/OC.130 of 28 April 2006.

Enclosure

Report of the Argentine Republic in response to the note of 28 April 2006

In her note S/AC.40/2006/OC.130 of 28 April 2006 the Chairman of the United Nations Security Council Committee established pursuant to resolution 1373 (2001) (Counter-Terrorism Committee) transmitted to the Government of the Argentine Republic comments and questions raised by the previous report which was submitted by Argentina pursuant to paragraph 6 of the resolution and issued as document S/2005/479. These comments and questions relate to existing legislation, draft legislation and the implementation of operational measures pertaining to the implementation of resolutions 1373 (2001) and 1624 (2005).

Below are the replies to the Committee's questions, in the order established in the note.

1. Implementation measures

1.1 In the fifth report (p. 3), Argentina states that new legislation on various counter-terrorism measures is pending. The Committee would appreciate an update on the status of the following:

- **The draft legislation amending article 277 of the Penal Code (on concealment)**
- **Article 278 of the Penal Code (on money-laundering)**

In accordance with the recommendations previously made to the Argentine Republic by the Financial Action Task Force on Money Laundering (FATF), due note should be taken of the text of Act No. 26,087 (promulgated on 21 April 2006 and published in Official Gazette No. 30,891 of 24 April 2006), which amended articles 277 and 278 of the Penal Code. Under this amendment, the exceptions provided for the offence of concealment (art. 277), in respect of persons who act on behalf of their spouse, relative, close friend or a person to whom a special favour is owed, are not applicable to the offence of money-laundering (art. 278). As amended, the articles of the Penal Code read as follows:

"Article 277

1. A prison sentence of six months to three years shall be imposed upon any person who, following the commission of an offence by another person, in which he did not participate,

(a) Helps someone to avoid official investigations or to escape from the authorities;

(b) Conceals, alters or disposes of the traces, evidence or instruments of the offence, or assists the offender with or participates in their concealment, alteration or disposal;

(c) Acquires, receives or conceals money, items or effects derived from an offence;

(d) Fails to report the commission of an offence or to identify the perpetrator of or participant in a known offence, when he was obligated to assist in the criminal prosecution of such an offence;

(c) Secures, or assists the offender in or participates in the securing of the product or proceeds of the offence.

2. In the case covered by paragraph 1 (c) above, the minimum penalty shall be a prison sentence of one month if, in the circumstances, the person had reason to suspect that the money, items or effects were the proceeds of an offence.

3. The minimum and maximum penalties shall be doubled when:

(a) The original act was a particularly serious offence, i.e. one for which the minimum penalty is a prison sentence exceeding three years;

(b) The person acts with intent to make a profit;

(c) The person habitually commits acts of concealment;

(d) The person is a public official.

The increased penalties provided for in this paragraph shall apply once only, even if more than one of the qualifying circumstances is present. In this case, the court may take into account the multiplicity of grounds when determining the sentence.

4. Persons who have acted on behalf of their spouse, a relative no further removed than the fourth level of consanguinity or second level of kinship, a close friend, or a person to whom a special favour is owed shall be exempt from criminal liability. The exemption shall not apply to the cases covered by paragraph 1 (e) and paragraph 3 (b) and (c)."

"Article 278

1. (a) A prison sentence of 2 to 10 years and a fine of 2 to 10 times the amount of the transaction shall be imposed upon any person who converts, transfers, manages, sells, profits from or uses in any other manner sums of money or other assets derived from an offence in which he did not participate, in such a manner that the original assets or derived assets may as a result appear to be of legal origin, provided that their value exceeds the sum of 50,000 pesos, either by a single act or by the repetition of various interrelated acts;

(b) The minimum penalty shall be five years' imprisonment if the offender commits the act habitually, or as a member of an association or group created for the purpose of committing acts of this nature on a continuous basis;

(c) If the value of the assets does not exceed the sum indicated in paragraph 1 (a), the offender shall be penalized in accordance with the rules of article 277.

2. Paragraph eliminated by Decree No. 370/00.

3. Persons who receive money or other assets of criminal origin with the aim of using them in a transaction which may make them appear to be of legal origin shall be penalized in accordance with the rules of article 277.

4. The objects relating to the offence described in paragraphs 1, 2 and 3 of this article may be confiscated.

5. The exemption established in paragraph 4 of article 277 shall not be applicable to any of the circumstances provided for in this article."

- **Draft legislation specifically criminalizing the financing of terrorism**

With respect to the specific criminalizing of the financing of terrorism, various draft laws have been submitted to Congress by different legislators. For its part, the Central Bank, with technical assistance from a mission of the World Bank and the International Monetary Fund, has prepared a preliminary draft law. This preliminary draft law was sent to the Joint Commission on Money-Laundering Transactions relating to Drug Trafficking, established by Act No. 24,450, which is composed of various State agencies with competence in the subject, as well as representatives of the Legislative Power and the Office of the Attorney-General. The Joint Commission adopted the preliminary draft law, which was transmitted to the Ministry of Justice and Human Rights for its consideration and opinion.

- **Legislation specifically criminalizing any form of assistance to terrorists or acts of terrorism**

In the fifth report (annex I, p. 6), the Argentine Government pointed out that the characterization of offences in the criminal legislation currently in force in the Republic complies with existing international instruments. The exception is the financing of terrorism, which may be punished under the laws governing criminal participation but is not as yet specifically criminalized, as required by article 2, paragraph 1, of the International Convention for the Suppression of the Financing of Terrorism.

In the light of the foregoing, any collaboration or assistance in the commission of an act of terrorism will be punished in accordance with the laws on criminal participation, in conformity with articles 45 to 49 of the Penal Code.

1.2 The Committee is aware that steps have been taken with a view to legal cooperation in connection with the terrorist attacks on the Asociación Mutual Israelita Argentina (AMIA) as well as the renewal of international arrest warrants for the Iranian citizens who are subjects of the investigation (fifth report, pp. 5-6). The Committee would be grateful for an update on the investigation and legal proceedings concerning the terrorist attack on AMIA.

Concerning the terrorist attack on the Asociación Mutual Israelita Argentina (AMIA), which occurred in Buenos Aires in 1994, the Prosecution Unit established specifically for the purpose in the Office of the Attorney-General of the Nation is continuing its investigation of the case (see fifth report, paragraph 1.1.3., ii, pp. 5-6).

Regarding judicial cooperation, Argentina continues to send letters rogatory to a number of countries, including Brazil, France and Paraguay. Argentina has received total or partial replies from some countries and is awaiting replies from others. For example, Argentina's Embassy in Iran has not yet received that country's replies.

1.3 In the fifth report (p. 6), Argentina states that a number of treaties on extradition and mutual legal assistance are being negotiated with a view to preventing refusals of extradition or legal assistance on the grounds of banking secrecy or where the offence involves fiscal matters. The Committee would appreciate an update on these measures.

In the multilateral or bilateral treaties being negotiated, the Argentine Republic is advocating that extradition or legal assistance should not be refused on the grounds of banking secrecy or where the offence involves fiscal matters.

It should be pointed out that, in the inter-American context, the Argentine Republic has promoted the Draft Model Law on Legal Assistance in Criminal Matters for the Americas in the Organization of American States. That Draft specifically establishes that banking secrecy or the fiscal nature of an offence shall not prevent a foreign State from granting the requested assistance. During discussion of the Draft in the Working Group on Legal Assistance of the Americas, it was accepted by all the representatives of the member States of the Organization and will be submitted to the next Meeting of Ministers of Justice of the Americas (REMJA VII), to take place in 2007, for their approval.

In the bilateral context, mention may be made of, inter alia, drafts that the Argentine Republic is negotiating with Belgium, Greece, Ireland, Korea and Panama. At the same time, regarding treaties currently in force, mention may be made of the Agreement on Assistance in Criminal Matters, signed with Peru (in force since October 2000) regarding inapplicability of banking secrecy, and the Treaty on Mutual Assistance in Criminal Matters, signed with Canada (in force since September 2001) regarding inapplicability of the fiscal nature of an offence.

Along those same lines, the inapplicability of banking secrecy or of the fiscal nature of an offence is, for the Argentine Republic, an essential condition for the conclusion of extradition and mutual legal assistance treaties. There is a proposal to include in some mutual legal assistance treaties being negotiated a formula whereby acts of terrorism, illicit drug trafficking, money-laundering, corruption and transnational organized crime may not be considered "fiscal offences", even if the facts of the case involve fiscal matters.

Counter-terrorism measures

1.4 The Committee notes that Argentina is a party to 12 of the international counter-terrorism instruments, welcomes Argentina's signing of the International Convention for the Suppression of Acts of Nuclear Terrorism and would be pleased to know your Government's plans to become a party to that Convention.

The Ministry of Foreign Affairs, International Trade and Worship has launched a process of consultations with competent State bodies, with a view to the eventual submission of the Convention to Congress for its approval under article 75, paragraph 22, of the Constitution and, subsequently, for ratification.

Criminal proceedings/Investigation techniques

1.5 Is there a witness protection programme in place in Argentina? If so, please provide information on any special features of that programme which apply to cases involving terrorism.

There is a witness protection programme in Argentina under Act No. 25,764, adopted on 23 July 2003. The National Programme for the Protection of Witnesses and Defendants is intended to protect the safety of defendants and witnesses who have cooperated significantly and effectively in a federal judicial inquiry into offences mentioned in articles 142 bis (Abduction) and 170 (Extortionate abduction)

of the Penal Code, and in Acts No. 23,737 (Drugs Act) and No. 25,241 (Reduction of sentences for persons who cooperate in the investigation of acts of terrorism).

Article 1 of Act No. 25,784 stipulates that it: "*Hereby creates the National Programme for the Protection of Witnesses and Defendants, designed to implement measures to protect the safety of defendants and witnesses whose lives or physical safety are endangered because they have rendered significant and effective cooperation in a federal judicial inquiry into offences mentioned in articles 142 bis and 170 of the Argentine Penal Code and the provisions of Acts No. 23,737 and No. 25,241.*

Without prejudice to the above, at the request of the judiciary, the Minister of Justice, Security and Human Rights may, citing reasons, include other cases not covered in the previous paragraph when they relate to offences connected with organized crime or institutional violence and the political and criminal importance and interest of the investigation make such inclusion advisable."

It is necessary to bear in mind, as regards the application of that programme to cases of terrorism, the provisions of article 1 of Act No. 25,241, which provides as follows: "*For the purposes of the present Act, acts of terrorism are criminal acts committed by members of unlawful associations or organizations established for the purpose of creating alarm or fear, which are carried out by means of explosive or inflammable substances, weapons or other deadly items, when used to endanger the life or physical integrity of an indeterminate number of persons.*"

Border controls/Customs

1.6 The Committee notes the measures taken by Argentina in order to secure its borders, as outlined in its first report (pp. 19-21), and the monitoring strategies and methods used by customs to ensure the security of shipments entering and exiting its territory (especially with regard to the movement of firearms), as described in the fourth report (pp. 34-35 and 37-38). To what extent do these strategies and methods take into account the World Customs Organization's Framework of Standards to Secure and Facilitate Global Trade?

The strategies and methods used by the Customs Office for controlling imports and exports are governed by the guidelines recommended by the World Customs Organization. Although intended to promote the free circulation of goods through international supply chains for reliable operators (Authorized Economic Operators), these also use a series of tried and tested risk-analysis tools for detecting high-risk cargo. They include the development of risk-analysis systems, the establishment of information channels with other Customs authorities for exchanging information and the introduction of non-intrusive inspection equipment using radiation detectors for cargo monitoring.

1.7 In addition to border control measures regarding firearms, the Committee would be grateful for information on Argentina's capacity to inspect and, where appropriate, detect, seize and confiscate falsely declared currency, bearer-negotiable instruments and precious metals and stones transported across its borders.

The Customs Office enjoys full powers in a "primary customs zone". The Customs Code (Act No. 22,415) granted full powers to that Office to inspect, seize and confiscate any goods presented for clearance, in the case of physical persons

through rules on border tourism or local frontier traffic and, in the case of transport vehicles, when the goods have not been declared or information on the customs declaration has been omitted or tampered with.

The regime for passengers' luggage has been governed since 2001 by General Resolution No. 1172 of the Federal Administration of Public Revenue (AFIP), which establishes that travellers must declare to the Federal Administration of Public Revenue whether they are carrying cash amounting to over US$ 10,000 or its equivalent in the currency of the Argentine Republic, or in any other foreign currency, in cash or monetary instruments, the latter being any means of payment, or cheques, including travellers' cheques. Should the Customs Office discover that the traveller or crew member has made a false declaration, it shall seize the surplus money and take pre-trial steps with a view to prosecution or prevention, as appropriate.

Likewise, bank transfers are governed by Resolution No. 631.91 of the former National Customs Administration (ANA), which deals with operational and monitoring issues relating to banknotes (paper money), gold of proper fineness, gold coins and/or other securities brought into Argentina by banking and financial institutions and foreign exchange bureaus authorized to operate by the Central Bank of the Argentine Republic. If banknotes (paper money), foreign currency, gold of proper fineness, gold coins and/or other securities are brought into Argentine territory in the luggage of travellers or crew members or by other means, the Customs Office shall inform the National Tax Office and the Financial Intelligence Unit of the operations conducted in this connection.

1.8 The Committee notes Argentina's method of communicating alerts for wanted or suspected terrorists to immigration authorities at various points of entry, as explained in the fourth report (pp. 25-26). Does this method include International Criminal Police Organization (Interpol) information on Red Notices (for arrest) and Blue Notices (for location)? If so, how is this done?

The answer is in the affirmative. In fact, such alerts are circulated through the International Criminal Police Organization (Interpol) I-24/7 system, based on that Organization's intelligence. It feeds into the system, through the respective National Central Bureaus (NCBs), only alerts issued by a court warrant of the competent judicial authority, including those concerning terrorists. Under such a warrant, a document known as an IPCQ is issued and entered into the I-24/7 system, to which all the NCBs that form part of Interpol are connected. Internally, alerts to all national police and security forces and the Department of Immigration are sent out by the Argentine NCB. In this regard, the reply furnished in the report fully answers the Committee's question.

1.9 Does Argentina have a register for reports of lost or stolen personal and travel documents? Does it exchange this information with other States on a regular basis?

This is a global register belonging to Interpol, and reflects the data downloaded by each National Central Bureau, including Argentina. This register can be found on I-24/7, mentioned in the preceding paragraph.

In addition, if an Argentine national applies to an Argentine consular office, for a passport because his or her travel document has been lost or stolen while abroad, the Consul is required to ask the applicant to submit the report in which the

police was informed of the loss or theft of the passport. When the new passport is issued, the consular official transmits via a computerized system (using a special access code) information on the lost or stolen passport, to be entered in a database consulted by Argentine consular offices, and the relevant department of the Ministry of Foreign Affairs, International Trade and Worship (Department of Consular Affairs). Moreover, if the relevant Department of that Ministry receives information about cancelled foreign passports, this information is conveyed to the Argentine immigration authorities (Department of Immigration) and, if necessary, to Argentine consular offices.

1.10 The International Civil Aviation Organization (ICAO) has initiated a Universal Security Audit Programme to audit all Contracting States' compliance with Annex 17 of the Convention on International Civil Aviation. Does Argentina have any difficulties in implementing Annex 17? If so, please explain.

Under Act No. 26.102 (Airport Security Act), promulgated on 16 July 2006, a new security force known as the Airport Security Police (PSA), was established, replacing the disbanded National Aeronautical Police. This new legislation clarifies and raises some issues related to the former duties and responsibilities of the Airport Security Police and the Argentine Air Force. It also provides a time frame for the submission of a code of airport offences that is currently being drafted. Once that code is adopted, it is expected significantly to improve the implementation of the provisions of Annex 17 and corresponding national legislation, for the benefit of aviation safety in Argentina.

The Argentine Republic has informed ICAO in due time and form of discrepancies between the recommended standards and methods envisaged under Annex 17 and national legislation on airline safety. In each case, Argentina has stated the reasons for and nature of such differences, its intentions and/or existing impediments to correcting the shortcomings, and the time period in which they should be resolved.

1.11 Does Argentina intend to make contributions to the ICAO Plan of Action to strengthen aviation security, including through security audits, urgent assistance to States, provision of training courses and of a range of guidance materials, and various other projects?

As the body responsible for aviation safety in the Argentine Republic, the Airport Security Police (PSA) plans to contribute to the ICAO Aviation Security Plan of Action. This intention was stated at the eleventh meeting of the AVSEC Group of the Latin American Civil Aviation Commission (LACAC) and the fifth meeting of the CAR/SAM Regional Planning and Implementation Group (GREPECAS) held in Buenos Aires from 8 to 13 May 2006.

The Argentine Republic is also contributing by providing aviation security training courses at the Centre for Instruction, Training and Experimentation of the Argentine Air Force Regional Command and through the participation of PSA members in working groups of AVSEC, LACAC and the GREPECAS AVSEC/COM.

Immigration controls

1.12 The Committee takes note of Argentina's immigration and nationality laws as explained in the fourth report (pp. 25-30) and would be pleased to know whether Argentina permits legal name changes without prior residency. If so, what measures are taken to verify the identity of applicants?

Within the sphere of competence of the Ministry of the Interior (Department of Immigration), each entry and departure of persons into and from the country is registered in the computerized database of the Department of Immigration, where the name, the number of the passport or identity document, origin or destination, and date of entry or departure are recorded.

1.13. Action taken by the 3+1 Group on Tri-Border Area Security

The activities undertaken in the tri-border area by the "3+1 Group" deserve mention. The Group was formed at the initiative of the Argentine Republic and includes Brazil, Paraguay and the United States. Its main function is to forge cooperation among Customs, immigration and security agencies and to monitor the movement of assets.

Particular attention should be drawn to the Joint Communiqué issued at the conclusion of the most recent plenary session of the "3+1 Group" in Brasilia on 6 December 2005, which stated that, according to currently available information, no operational activities of terrorism had been detected in the tri-border area. If activities that might contribute, even indirectly, to terrorist acts were detected, including financing of terrorism, the delegations pledged to share such information immediately, in order to prevent any possible illicit outcome.

At the most recent meeting of Financial Intelligence Units of the 3+1 Group it was decided to promote the strengthening of border controls, stressing the need for closer cooperation among member countries, and agreed to establish a technical working group to carry out a strategic analysis of trends throughout the region.

2. Implementation of resolution 1624 (2005)

Paragraph 1

2.1 What measures does Argentina have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any, are under consideration?

Please refer to the explanation given in the fifth report and reiterated under 1.1 above, to the effect that terrorist acts are punishable in accordance with the various provisions of the Penal Code in force, which cover behaviour required to be criminalized under existing international instruments. Therefore, the offence of incitement may be penalized as aiding and abetting (art. 209), or advocacy of a crime (art. 213), depending on the circumstances.

2.2 What measures does Argentina take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts?

The Argentine Republic is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. In 1985, Decree 464/85 established the Refugee Eligibility Committee (CEPARE), with responsibility for the determination of refugee status, operating under the Ministry of the Interior. This Committee is comprised of three representatives from the Department of Immigration (the directors of immigration, legal affairs and admissions of aliens) and a representative of the Ministry of Foreign Affairs, International Trade and Worship. CEPARE also includes a representative of the Office of the United Nations High Commissioner for Refugees (UNHCR), with a voice but no vote.

CEPARE bases its analysis of applications for refugee status on the 1951 Convention and the UNHCR guidelines on refugee status determination, taking into account the provisions of article 1, section F, of the Convention, which establishes the grounds on which a person may be denied refugee status because he or she is considered undeserving of international protection.

Although article 1, section F, of the Convention does not explicitly refer to terrorist acts, the various grounds for exclusion mentioned are the type of illicit act that usually gives rise to terrorism, and so the members of such organizations are denied refugee status.

It should be noted that, following the UNHCR guidelines on the application of the exclusion clauses, Argentina considers terrorist acts as serious non-political crimes. Therefore, in principle, the grounds for exclusion referred to in article 1, section F (b) (commission of a serious non-political crime) exist in the case of applicants with respect to whom there are serious reasons for considering that they have committed, or have incited the commission of, such acts.

In this context, in compliance with the criteria established by the Convention for the application of the exclusion clauses, in order for these clauses to be invoked, it is sufficient to determine that there are "serious reasons for considering" that one of the acts described has been committed and it is not necessary to formally prove that there had previously been criminal proceedings or sentencing.

Furthermore, as UNHCR does indeed point out in its guidelines on application of the exclusion clauses, the individual responsibility required for exclusion flows from the person having committed or made a substantial contribution to the commission of the criminal act, in the knowledge that his or her act or omission would facilitate the criminal conduct.

Under the procedure for determining refugee status, CEPARE has broad powers to obtain information about asylum-seekers, since national, provincial and municipal authorities are obliged to supply whatever information, advice and/or collaboration CEPARE may request of them.

The CEPARE procedure includes submission of a comprehensive form and an initial interview which establishes inter alia the main features of each case and the events which necessitated departure from the country of origin. The applicant is also requested to supply all relevant evidence in his or her possession and to certify the accuracy of the account. In addition to the initial interview, there is a second and more searching one conducted by specialized personnel of the administrative secretariat of CEPARE.

The case is submitted to CEPARE, which examines and verifies the information contained in the application and cross-checks it against the information provided by the UNHCR regional office. If there are any doubts about the content of an application, CEPARE is empowered to summon the applicant to make a statement in person.

In a similar way, in the case of procedures subsequent to the determination of refugee status the current regulations applied by the immigration authority following the granting of refugee status include a procedure for ascertaining a refugee's criminal record, if any, including any terrorist activities. As part of the administrative process of documentation of aliens, Interpol is required to submit reports on the national and international record of the person concerned; this may result in reconsideration of the granting of refugee status if some of the grounds for exclusion under article 1, section F of the 1951 Convention relating to the Status of Refugees are found to exist. It must be pointed out that requests submitted to Interpol for information about a criminal record do not mention the refugee status of the person concerned, in order to respect the principle of confidentiality.

2.3 How does Argentina cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

In addition to the measures described in the replies to paragraphs 1.8 and 1.9 (Interpol notices) and 1.10 and 1.11 (ICAO security measures), Argentina, as a member of MERCOSUR, participates in the operations of the "integrated control areas", which involve joint immigration, Customs and health controls in cooperation with the authorities of neighbouring countries. Similar arrangements are in place with Chile and Bolivia.

Argentina is also a member of the Standing Working Group on Terrorism of the Meeting of MERCOSUR Ministers of the Interior, which involves information-sharing on the activities of terrorist organizations or of suspected terrorists. This work has been in progress continuously since 2001, with contributions from all the region's intelligence services and security and police forces, including in the case of Argentina, the Intelligence Secretariat, the National Criminal Intelligence Directorate of the Domestic Security Secretariat, the Gendarmeria Nacional, the Argentine Coast Guard, the Argentine Federal Police and the Airport Security Police.

Also within MERCOSUR, work is in progress to implement the MERCOSUR Security Information Exchange System (SISME), which links the databases of MERCOSUR security bodies. In addition, joint or coordinated operations with the security and police forces of the region are conducted and training courses are also provided in order to enhance capacities for the action that our States must take in combating terrorism.

The occasion of the Meeting of MERCOSUR Ministers of the Interior is used by all the security and police institutions to maintain contacts with their counterparts from Brazil, Paraguay, Uruguay, Venezuela, Chile, Bolivia, Peru and Colombia.

The Domestic Security Secretariat oversees the operations of the Argentine institutions that take part in the Tri-border Tripartite Command, the operational and intelligence coordination centre for the police and security forces of Argentina, Brazil and Paraguay in the Puerto Iguazú/Foz do Iguaçu/Ciudad del Este area. The Joint Coordination Units operating between Argentina and Paraguay, Brazil and Uruguay have the same functions.

The Domestic Security Secretariat also oversees the professional agreements concluded by the Gendarmería Nacional with Carabineros of Chile and the National Police of Bolivia and Paraguay, as well as a standing agreement between the Argentine Coast Guard and the Paraguayan Coast Guard.

Paragraph 3

2.4 What international efforts is Argentina participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?

2.5 What steps is Argentina taking to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

Argentina encourages and promotes the fullest enjoyment of human rights and, in particular, the elimination of all forms of discrimination on grounds of race, religion, ethnic or social origin, or on any other grounds, in accordance with existing international and constitutional standards. In this connection, it should be noted that the following international instruments are fully enshrined in the Constitution, in accordance with article 75, paragraph 22, of the National Constitution: the American Declaration of the Rights and Duties of Man; the Universal Declaration of Human Rights; the American Convention on Human Rights; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights, and its Optional Protocol; the Convention on the Prevention and Punishment of the Crime of Genocide; the International Convention on the Elimination of All Forms of Racial Discrimination; and the Convention on the Elimination of All Forms of Discrimination against Women.

We would like to draw attention to the provisions of Act No. 23,592 on the punishment of discriminatory acts, article 1 of which establishes that: "Any person who arbitrarily impedes, obstructs, restricts or in any way impairs the full exercise on an equal footing of the fundamental rights and guarantees recognized in the National Constitution shall be obliged, at the request of the injured party, to undo or desist from the discriminatory conduct in question and to make restitution for the moral or material damage caused". The same article provides that "Particular consideration shall be given to discriminatory acts or omissions on the grounds of race, religion, nationality, ideology, political or trade-union views, sex, economic standing, social status or physical characteristics".

Article 2 of the Act provides for raising "by one third the minimum and by one half the maximum penalty for any offence prohibited under the Penal Code or supplementary legislation where it is committed out of hatred for or as an act of persecution of a race, religion or nationality or with the aim of destroying, wholly or in part, a national, ethnic, racial or religious group".

Article 3 of the Act provides for a term of imprisonment for one month to three years for "those who participate in an organization or engage in propaganda based on ideas or theories of the superiority of a race or a group of persons of a specific religion, ethnic origin or colour, with the purpose of justifying or promoting racial or religious discrimination in any form ... The same penalty shall be imposed on persons who, by whatever means, encourage or incite persecution of or hatred against a person or groups of persons because of their race, religion, nationality or political ideas".

Act No. 24,515 established the National Institute against Discrimination, Xenophobia and Racism (INADI) as a decentralized body under the jurisdiction of the Executive. Article 4 of the Act provides that INADI shall have the mandate to:

"(a) Act as the enforcement body for this Act, ensuring compliance with it and the attainment of its objectives by means of research into the national situation with regard to discrimination, xenophobia and racism and preparation of reports and proposals on those topics;

"(b) Raise awareness of the principles enshrined in Act No. 23,592 and in compatible and supplementary legislation and disseminate the results of studies that it conducts or promotes and proposals that it makes;

"(c) Plan and promote educational campaigns to advance social and cultural pluralism and eliminate discriminatory, xenophobic or racist attitudes and to participate in the implementation of such campaigns;

"(d) Compile and keep updated information on international and foreign legislation relating to discrimination, xenophobia and racism, study such information and prepare comparative reports on it;

"(e) Receive and act as a focal point for complaints of discriminatory, xenophobic or racist conduct and maintain a record of such complaints;

"(f) Establish a compilation of all documents, materials and testimony relating to the objectives of INADI;

"(g) Provide free and comprehensive counselling for individuals or groups that are discriminated against or are victims of xenophobia or racism;

"(h) Provide free legal assistance and, at the request of an interested party, ask to be heard in judicial or administrative proceedings on topics relating to its mandate;

"(i) Provide the Attorney-General's office and the courts with specialized technical advice on matters relating to its area of expertise;

"(j) Keep the public informed about any discriminatory, xenophobic or racist attitudes and behaviour that may occur in any area of national life, particularly with regard to education, health, social welfare and employment, whether on the part of the public authorities, private institutions or individuals;

"(k) Establish prima facie identification of the existence in Argentine territory of persons who, during the Second World War or subsequently, participated in the extermination of peoples or in the killing or persecution of persons or groups of persons on grounds of race, religion, nationality or

political opinion and, where appropriate, report them to the competent authorities;

"(l) Where sufficient evidence exists and in accordance with the provisions of article 43 of the National Constitution, promote and advance the relevant legal and administrative action against the persons covered by the previous paragraph;

"(m) Establish working relationships with national or foreign public or private bodies having similar objectives to those pursued by the Institute;

"(n) Put forward proposals to the relevant authorities concerning the conclusion of new extradition treaties;

"(o) Conclude agreements with public or private, national or international bodies or institutions that will contribute to the achievement of compliance with the objectives pursued by the Institute."

Activities undertaken in cooperation with international organizations and forums include the following:

(a) Task Force for International Cooperation on Holocaust Education, Remembrance, and Research

Argentina has been a full member of the Task Force for International Cooperation on Holocaust Education, Remembrance, and Research (ITF) since 2002 and, as such, has undertaken to abide by the Declaration of the Stockholm International Forum on the Holocaust, of January 2000, and to implement policies and programmes to promote Holocaust education, remembrance and research.

It should be noted that the Government has recently taken further measures in that regard. On 10 February 2006, it adopted Decision No. 202 SER/52/SE/6DH, which involves the participation of three Ministries (education, justice and foreign affairs). Its main objective is to ensure that activities relating to the Holocaust are put on a permanent footing and to consolidate Argentina's active and practical participation in ITF plenary meetings.

The Decision provides for such active participation through the establishment of the Standing Advisory Council, which is made up of government officials and NGOs involved in Holocaust education, remembrance and research.

(b) National Plan against Discrimination, as a follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (Durban 2001)

Following the World Conference against Racial Discrimination, Xenophobia and Related Intolerance, held in 2001, the Government of Argentina, assisted by the United Nations Development Programme (UNDP), decided to draw up a national plan against discrimination, xenophobia and other forms of intolerance with a view to implementing the conclusions of the World Conference.

The Ministry of Foreign Affairs, working in conjunction with INADI and the Human Rights Secretariat of the Ministry of Justice and Human Rights, therefore drew up the National Plan against Discrimination, adopted by National Decree No. 1086/2005 of 8 September 2005, as a follow-up to Argentina's commitments at the World Conference.

This National Plan makes Argentina one of the first countries in the world to have conducted a full and complete diagnostic study on discrimination in its society.

This groundbreaking study received considerable financial support from UNHCR, administered through UNDP. As stated above, the National Plan against Discrimination is the most complete diagnostic study ever conducted on discrimination in Argentine society and contains concrete proposals for eradicating discrimination in our country. Its specific proposals for combating discrimination are expected to have an impact on the development of national policies.

Paragraph 4

2.6 What is Argentina doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law and humanitarian law?

The Argentine Republic understands that counter-terrorism measures must be applied within the broader framework of compliance with international human rights law, refugee law and humanitarian law. In this regard, it is essential to guarantee respect for and compliance with international law in the application of counter-terrorism measures. In particular, the following internationally recognized basic human rights must be guaranteed: right to life, right to humane treatment, right to personal liberty and security, right to a fair trial, right to freedom of expression, right to protection against discrimination and right to judicial protection.

As concerns respect for and compliance with international human rights law and international humanitarian law in the fight against terrorism and the adoption and implementation of counter-terrorism measures, the Argentine Republic:

1. Complies with and implements the recommendations, resolutions and decisions of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights of the Organization of American States, as well as those of United Nations organs created under human rights treaties and the special procedures and mechanisms of the United Nations Human Rights Commission, and will continue to do so within the new United Nations Human Rights Council;

2. Respects and guarantees all human rights without discrimination;

3. Ensures that the machinery of government and the authorities are organized in a manner that legally ensures the full and free exercise of these human rights;

4. Respects and guarantees the principles of the rule of law, representative democracy, authorities' compliance with domestic laws, separation and independence of authorities, and constitutional subordination of all institutions of the State to the legally constituted civil authority;

5. Respects and guarantees the independence and institutional autonomy of courts of law;

6. The Argentine Government does not interfere with the judicial process and complies with the decisions of the courts. Similarly, it has not created extrajudicial bodies to replace the jurisdiction of courts of law.

As for measures designed to maintain legal and practical human rights guarantees in the fight against terrorism, the situation of people living in a foreign

State, including migrant workers, refugees and people fleeing from persecution, who are particularly vulnerable to human rights violations, is of vital importance.

In this context, and with regard to international refugee law, as has already been indicated in relation to paragraph 1 of the resolution, the competent authorities of the Argentine Republic take into account the principal international and regional human rights instruments as well as UNHCR guidelines on international protection, in determining refugee status pursuant to the 1951 Convention.

Thus, the Argentine Republic guarantees the right to seek asylum in the country through fair and effective procedures as well as the right to due process without discrimination.

As noted earlier, the process for determining refugee status in the Argentine Republic is handled by competent officials, who guide the applicant through the process. In our country, there is a clearly identified authority responsible for examining refugee applications and issuing an initial ruling.

Similarly, asylum-seekers are given the appropriate means to present their case to the competent authorities and are informed about the possibility of contacting a representative of UNHCR.

In the event that a refugee application is rejected, the applicant has 10 days to appeal the decision. The appeal is heard by the Interior Ministry, on the recommendation of the Human Rights Secretariat of the Ministry of Justice and Human Rights and, as with all administrative measures, these decisions are subject to judicial review.

Lastly, as indicated above, the Regional Office of UNHCR in Argentina attends meetings of the Refugee Eligibility Committee and advises the Committee on all matters related to the protection of refugees.

3. Assistance and guidance

3.1 The Committee wishes to emphasize once more the importance that it attaches to the provision of assistance and advice in connection with the implementation of the resolutions. The Committee's Directory of Assistance (www.un.org/sc/ctc) is frequently updated to include new relevant information on available assistance. The Committee takes note of the fields of technical assistance requested by Argentina in its fifth report (pp. 15-16) and is pleased to inform Argentina that its requested assistance has been brought to the attention of potential technical assistance providers through the Committee Matrix.

The Argentine Government values and welcomes the Committee's cooperation in forwarding this request for assistance.

3.2 Having considered both the technical assistance requested by Argentina and the technical assistance identified by CTED, the Committee considers the following to be priority areas in which Argentina would benefit from receiving technical assistance for the effective implementation of resolution 1373 (2001):

- **Law enforcement training in the detection and investigation of terrorist financing and money-laundering, including counterfeiting and outbound currency interdiction;**

- **Technical advice with a view to the creation of a consolidated database containing information on suspicious financial transactions and profiles of terrorists and their associates.**

3.3 The Committee would like to receive your country's approval to share the above-mentioned bullet points with donor States and organizations that may be in a position to provide assistance in the above areas (other parts of this letter will not be shared). This would enable the Committee to facilitate the provision of technical assistance. The Committee would appreciate receiving your country's response no later than 30 days from the date of this letter. If your country's response is not received within that period, the Committee will assume that the points could be shared with the donor States and organizations. The actual provision of assistance will naturally be subject to Argentina's request and consent. The Committee would also welcome any comments Argentina may have regarding this section (Section 3 on "assistance and guidance").

The Argentine Government considers the areas proposed by the Committee in point 3.2 for the provision of assistance to be highly useful and relevant, and is pleased to give its approval for the Committee to forward them to donor States and organizations, under the terms outlined in point 3.3.

3.4 Furthermore, the Committee's Directory of Assistance (www.un.org/sc/ctc) is frequently updated to include new relevant information on available assistance. The Committee would appreciate receiving information from Argentina concerning areas where it might be in a position to provide assistance to other States in relation to the implementation of the resolutions.

Please refer to the fifth report (point 2.1.2, page 14) regarding technical assistance in the area of legislation that the Argentine Republic provides in the context of programmes implemented by the United Nations Office on Drugs and Crime (UNODC), together with the Inter-American Committee Against Terrorism of the Organization of American States (CICTE/OAS) and other international organizations.

As part of this assistance programme, a workshop on the prevention of terrorism and its financing took place in Buenos Aires from 29 November to 2 December 2005, organized jointly by UNODC and CICTE/OAS and sponsored by the Ministry of Foreign Affairs, International Trade and Worship. This event was attended by judges, prosecutors and police officers from Argentina, Bolivia, Brazil, Colombia, the Dominican Republic, Ecuador, El Salvador, Guatemala, Mexico, Honduras, Panama and Peru. Magistrates from Spain and Italy also attended as presenters, along with experts from the International Monetary Fund, the South American Financial Action Task Force on Money Laundering (GAFISUD) and the International Criminal Police Organization (Interpol).

In addition, on 9 and 10 February 2006, a regional conference on prevention of the financing of terrorism was held in Buenos Aires. This event, organized by the Central Bank of the Argentine Republic, was sponsored by the International Monetary Fund, the World Bank, the Inter-American Development Bank, the Inter-American Drug Abuse Control Commission, the Inter-American Committee Against Terrorism, the United Nations Counter-Terrorism Committee, GAFISUD, the Board

of Governors of the Federal Reserve System of the United States and other associates of Argentine and foreign financial entities.

Finally, as regards regulatory and control initiatives, one highlight was the internship programme organized in 2005 by the Financial Intelligence Unit.

Conclusion

As regards a comprehensive counter-terrorism strategy, it should be noted that international efforts to suppress the financing of terrorism are particularly important today, since it is essential to deprive terrorists of physical and financial resources. These efforts are arduous and require the adoption of a series of important legislative, administrative and regulatory measures and renewed international cooperation. The Argentine Government reaffirms its firm resolve to implement resolution 1373 (2001) and other relevant resolutions of the Security Council, and reiterates its willingness to cooperate actively with the Committee in all relevant areas to ensure the full application of these international standards.

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Security Council

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Letter dated 31 October 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report of Ireland submitted pursuant to resolution 1624 (2005) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

06-59653 (E) 151106

Annex

Letter dated 25 October 2006 from the Permanent Representative of Ireland to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

I refer to your letter of 15 May 2006 and have the honour to forward to you the first report of the Government of Ireland concerning Ireland's implementation of the provisions of Security Council resolution 1624 (2005) (see enclosure).

Ireland attaches great importance to its compliance with the terms of resolution 1624 (2005) and would welcome any further comments or questions that you may have in relation to any of the items addressed in the report.

(*Signed*) David J. **Cooney**
Ambassador
Permanent Representative

Enclosure

Ireland's implementation of

United Nations Security Council resolution 1624 (2005)

(Incitement to terrorism)

What measures does Ireland have in place to prohibit by law and to prevent incitement to commit a terrorist act or acts? What further steps, if any are under consideration?

Ireland has in place measures which prohibit by law incitement to commit a terrorist act or acts:

- Under common law it is an offence to incite another to commit a crime. This may be done by persuasion or by intimidation. The crime of incitement stands alone and does not depend on whether a substantive offence was committed;

- The possession, production and publication of any document which is, contains or includes a treasonable or seditious document (Sections 10, 11 & 12, Offences against the State Act 1939);

- Section 7 of the Criminal Law Act 1997 provides that any person who aids, abets, counsels or procures the commission of an indictable offence shall be liable to be tried as the principal offender.

- The making of a threat to engage in a terrorist activity (Section 6, Criminal Justice (Terrorist Offences) Act 2005).

The Criminal Justice (Terrorist Offences) Act, 2005 implemented a number of international conventions and created new international, terrorist offences. The 2005 Act take existing offences, for example, murder, assault, poisoning, endangerment, false imprisonment, malicious damage offences, offences involving vehicles or aircrafts, explosives and firearms offences and offences relating to chemical, nuclear and other dangerous substances (the list of offences is set out in Schedule 2 of the Act) and establishes them as terrorist offences when committed with the intention of seriously intimidating a population, unduly compelling a government or an international organisation to perform or abstain from performing an act, or seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a state or an international organisation.

The common law offence of incitement taken together with the offences created in the Acts cited above, and in particular, the Criminal Justice (Terrorist Offences) Act, 2005, makes it an offence for a person to incite another to commit any of the acts listed in Schedule 2 for the purposes described above.

What measures does Ireland take to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of incitement to commit a terrorist act or acts.

Ireland is entitled to refuse entry to, and deport from, the State any non-national in the interests of national security or public policy. It would be against the public policy of the State to grant safe haven to any person with respect to whom there is credible and relevant information giving serious reasons for considering they may have been guilty of incitement to commit a terrorist act and, accordingly, such a non-national can be refused entry or deported.

The terrorist conventions (International Convention Against the Taking of Hostages, Convention of the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, International Convention for the Suppression of Terrorist Bombings, Offences Against Internationally Protected Persons, International Conventions for the Suppression of the Financing of Terrorism) can form the basis for extradition to other contracting parties where there is no extradition treaty in place between them so that in those cases where the individual is present in the State he or she can, provided all of the requirements are met, be extradited to face the offences of which they are suspected.

Where a terrorist offence under the Criminal Justice (Terrorist Offences) Act, 2005 is committed outside the State then, if a request for extradition or surrender in order to proceed against the person concerned for such an offence is refused, and also in certain other special circumstances, the person concerned may be prosecuted in Ireland for the offences committed outside Ireland.

Where there are serious reasons for considering that an individual seeking asylum in the State has committed a serious non-political crime outside the State prior to entering the State or has been guilty of acts contrary to the purposes and principles of the United Nations, e.g. who has been guilty of acts covered by Resolution 1624 (2005), then, pursuant to the provisions of the Convention on the Status of Refugees, the individual may be excluded from the definition of "refugee" and, accordingly, be excluded from the process of seeking refugee status pursuant to Section 2 of the Refugee Act, 1996.

Further, if it is considered necessary in the interests of national security and public policy the State may decline to grant a declaration of refugee status and require the person concerned to leave the State. A person who is in the State as a refugee may have their status as refugee withdrawn under section 21 of the Refugee Act, 1996 and will thereupon be expelled from the State if their presence poses a threat to national security or public order.

The Garda Síochána (Ireland's National Police Force), which also acts as Ireland's national immigration service, operates extensive border control checks, including 'watch' and 'stop' lists, in respect of persons suspected of terrorist-related activity.

Ireland is a party to the 1957 Convention on Extradition, and has implemented the EU Framework Decision on the European Arrest Warrant. Any person resident in Ireland may be subject to extradition under the Extradition Act 1965 as amended (to countries other than EU member states), the European Arrest Warrant Act 2004, as amended (to EU member states) or under bilateral agreements with third States. In addition Ireland has ratified 12 UN anti-terrorism instruments which contain extradition provisions.

Citizenship and residency can be revoked where false documentation or false information has been provided in an application, and the person can be subject to deportation.

How does Ireland cooperate with other States in strengthening the security of its international borders with a view to preventing those guilty of incitement to commit a terrorist act or acts from entering their territory, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures?

Ireland cooperates with other States in strengthening the security of its international borders through its membership of European and International Working Groups where policy on these issues is decided, and through bilateral and multilateral interaction in relation to the prevention of terrorist activity.

The security of the borders of the EU and further afield is addressed and strengthened on an ongoing basis through regular interaction with such agencies as FRONTEX, EUROPOL, INTERPOL and EUROJUST.

Ireland operates jointly with other states by placing officers at Ports of Entry in each others jurisdiction over specific periods of time, facilitating ease of communications and exchange of information. Officers have also been placed at hub airports in Member States to ensure a targeted approach to border control.

In relation to combating fraudulent travel documents, the Garda Síochána (Ireland's National Police Force) has established a Fraudulent Documents Unit, which acts as a Contact Point for liaison with Contact Points throughout Europe. All members attend training courses abroad organised by the European Union and regularly participate in European Union meetings on combating fraudulent documents. International contacts are also established and regular communication is maintained. In addition, Ireland is organising an international Immigration Fraud Conference to be held in late 2006 to further international cooperation in this area.

What international efforts is Ireland participating in or considering participating in/initiating in order to enhance dialogue and broaden understanding among civilizations in an effort to prevent the indiscriminate targeting of different religions and cultures?

Following on from the first Interfaith Dialogue held in Bali in 2005, the second ASEM (Asia-Europe Meeting) Interfaith Dialogue which took place in Larnaca, Cyprus from 2 to 5 July 2006 looked at the issue of "Interfaith understanding and cooperation for a peaceful world".

Ireland, one of a number of co-sponsors of the Larnaca Dialogue, was represented in each of the three parallel Working Groups which discussed practical ways of achieving Interfaith Understanding, the role of Media in Promoting Interfaith Dialogue and the role of Religion in Multiethnic Societies.

Ireland's delegation to Larnaca was made up of a representative of the Embassy of Ireland to Cyprus, the ASEM Senior Official from the Department of Foreign Affairs and Mr. Patsy McGarry, The Irish Times Religious Affairs Correspondent, who participated in the Media Working Group.

Good progress on interfaith understanding was made during the Larnaca Dialogue, especially with regards to making concrete, practical recommendations, as reflected in the 12-point "Larnaca Action Plan on Interfaith Understanding and Cooperation for a Peaceful World."

What steps is Ireland taking to counter incitement to terrorist acts motivated by extremism and intolerance and to prevent subversion of educational, cultural and religious institutions by terrorists and their supporters?

Terrorism is an area where prevention is very much better than cure. A key element of Ireland's approach at countering extremism and intolerance is the National Action Plan Against Racism (NPAR) which was launched on 27 January, 2005. The proposal for a NPAR arose from a commitment at the UN World Conference Against Racism in South Africa in 2001 that each member state of the United Nations should develop and implement a national action plan.

The NPAR is being implemented over a 4 year period (2005 - 2008). The emphasis is on "a whole of system approach" with particular emphasis on mainstreaming intercultural issues into formulation of public policy. The Plan builds on the substantial equality infrastructure which is already in place.

The framework underpinning the Plan is based on five objectives and is summarised as follows:

1. Effective protection and redress against racism, including a focus on discrimination, assaults, threatening behaviour, and incitement to hatred.

2. Economic inclusion and equality of opportunity, including a focus on employment, the workplace and poverty.

3. Accommodating diversity in service provision, including a focus on common outcomes, education, health, social services and childcare, accommodation and the administration of justice.

4. Recognition and awareness of diversity, including a focus on awareness raising in the media, the arts, sport and tourism.

5. Full participation in Irish society, including a focus on the political level, the policy level and the community level.

The overall aim of the NPAR is to provide strategic direction to combat racism and to develop a more inclusive, intercultural society in Ireland based on a commitment to inclusion by design, not as an add-on or afterthought and based on policies that promote interaction, equality of opportunity, understanding and respect.

On 14th July 2004, the Garda Siochána and the Police Service of Northern Ireland (PSNI) were successful in their application for funding under The European Union Peace II Programme to deliver a joint diversity training initiative in counties along the border regions of Ireland. The purpose of the programme was to provide diversity training to 1,200 members from both the Garda Siochána and the PSNI and its key aim was raise each participants' awareness of every individual's ability to stereotype, exclude and marginalize others, based on a human's perception of difference. Training Workshops aim to develop Gardai and PSNI Officers skills, in dealing with 'differences' and recognising the role of 'group think' and 'conformity' while acknowledging the unique characteristics of policing in Ireland, North and South. The remit of course extends beyond cultural / religious difference to include diversity related issues such as Ageism, Disability and Sexual Orientation.

Ireland ratified the **United Nations Convention on the Elimination of all forms of Racial Discrimination (UNCERD)** on 29 December 2000 and it entered into force on 28 January 2001. Ireland was one of the countries that opted for Article 14 which allows a right of individual petition to the United Nations, all local remedies having being exhausted.

At the UNCERD Committee session in March, 2005 Ireland entered into its first dialogue with the UNCERD Committee on its initial and second national report. Ireland is working closely with the UNCERD follow-up co-ordinator on the implementation of the recommendations in the UNCERD Committees Concluding Observations on the national report. In June, 2006 Ireland facilitated a visit by the UNCERD Follow-up Co-ordinator, the first of its kind, to facilitate dialogue and assistance in Ireland's implementation of UNCERD's recommendations in the Concluding Observations on Ireland's national report. The follow-up Co-ordinator met with Irish Government officials and NGOs as part of his visit and will report to the UNCERD Committee at its August 2006 session.

What is Ireland doing to ensure that any measures taken to implement paragraphs 1, 2 and 3 of resolution 1624 (2005) comply with all of its obligations under international law, in particular international human rights law, refugee law and humanitarian law?

As regards the measures to prohibit the commission of a terrorist act, a person accused of incitement to commit a terrorist act or acts has available all of the protections required by the Irish Constitution and human rights instruments, both international and European.

A person accused of incitement to commit a terrorist act would not be treated differently in substance to a person charged with any other offence. Ireland is a party to the European Convention on Human Rights and is therefore required to meet the standards of the Convention in its treatment of persons charged or convicted of a criminal offence, including the offence of incitement to commit a terrorist act. Should an individual believe that those standards have not been met in the procedures adopted in his or her regard, then he or she may bring the matter to the European Court of Human Rights.

Turning to the denial of safe haven, a person refused entry to the State can seek judicial review of the decision and a court will then look at the decision to verify that it was made within proper legal

authority, that the person concerned was accorded procedural fairness, that the decision was reasonable, that it was compatible with human rights law, that it was proportionate and did not breach any legitimate expectation and that reasons had been given for the decision.

A person seeking asylum in the State would also be entitled to due process and would be entitled to seek judicial review as described above if refused asylum. This would also apply to a person who is being excluded from the definition of "refugee" on the grounds that there are serious reasons for considering that he or she has committed a serious non-political crime outside the State prior to entering the State or has been guilty of acts contrary to the purposes and principles of the United Nations, e.g. who has been guilty of acts covered by Resolution 1624 (2005) and to a person who is being refused a declaration of refugee status because this is considered necessary in the interests of national security or public policy. A refugee in respect of whom the declaration that he or she is a refugee is being withdrawn is entitled to due process, including access to a court, and would also be entitled to seek judicial review as described above.

A refugee or person seeking asylum will not be expelled or returned to a place where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. No person will be expelled, returned or extradited from the State to a place where there are substantial grounds for believing that he would be in danger of being subjected to torture as set out in the Convention against Torture of 1985 and as required by the European Convention on Human Rights.

As regards paragraph 2 and 3 of the UNSCR the European Convention on Human Rights has now been incorporated into Irish law in so far as (a) a court may declare a particular domestic provision or rule of law to be incompatible with the Convention whereupon the matter will then have to be considered by the Legislature and (b) in interpreting and applying any statutory provision or rule of law Irish courts are required, in so far as is possible and subject to the rules of law relating to interpretation and application of statutes, to do so in a manner compatible with the State's obligations under the Convention.